

REMARKS/ARGUMENT

Claims 2-16 are pending in this application. Claims 2-6, 8-10 and 15 stand rejected and claims 7 and 11-14 are objected to. Applicants wish to thank the Examiner for the indication of allowance of claim 16, and the indication of allowable subject matter in claims 7 and 11-14. In light of the remarks set forth below, Applicants respectfully submit that each of the pending claims is in immediate condition for allowance.

Applicants acknowledge with appreciation the Examiner's indication of allowable subject matter in dependent claims 7 and 11-14. For the reasons set forth below, Applicants respectfully submit that independent claim 15 and its dependent claims are also patentable over the prior art of record, for the reasons discussed below.

Applicant respectfully requests withdrawal of the "finality" of the present rejection because a final rejection at this time is premature. A second Office Action is not to be considered final if the Examiner cites a new ground for rejection which is not necessitated by Applicants' amendment. M.P.E.P. § 706.07(a). In the first Office Action dated May 7, 2002, minor formalistic objections were made to the pending claims. Specifically, Applicants responded to the rejection by making minor amendments to the claims. In this prosecution of this application, Applicant has not made any amendments which affect the scope of the claims. No new limitations were added to any of the claims. Moreover, the first substantive rejection is the current Office Action dated October 24, 2002, as such there has been no Office Action necessitating any substantive amendments. Therefore, issuing a final rejection at this time is premature and Applicant respectfully requests withdrawal of the "finality" of the present rejection.

In paragraph 1 of the Office Action, claims 2-4, 6, 8-9 and 15 are rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,341,195 (“Mankovitz”). Applicants respectfully request reconsideration and withdrawal of this rejection.

To anticipate a claim under 35 U.S.C. § 102, the cited reference must disclose every element of the claim, as arranged in the claim, and in sufficient detail to enable one skilled in the art to make and use the anticipated subject matter. See, PPG Industries, Inc. v. Guardian Industries Corp., 75 F.3d 1558, 1566 (Fed. Cir. 1996); C.R. Bard, Inc. v. M3 Sys., Inc., 157 F.3d 1340, 1349 (Fed. Cir. 1998). A reference that does not expressly disclose all of the elements of a claimed invention cannot anticipate unless all of the undisclosed elements are inherently present in the reference. See, Continental Can Co. USA v. Monsanto Co., 942 F.2d 1264, 1268 (Fed. Cir. 1991).

Among the limitations of independent claim 15 which are neither disclosed nor inherent in Mankovitz is a “broadcast resource receiver ... responsive to a unified notation, said unified notation identifying at least said first broadcast stream and a second broadcast stream, said unified notation being independent from a capture route, a capture time and an inherent name.”

Mankovitz does not disclose such a receiver utilizing a unified notation. In Mankovitz, a user selects a guide which stores the appropriate reception instructions, e.g., start time, end time, channel, and signal source in memory 752. The selected guide is related to the start time, end time and channel. Further, in Mankovitz, the guide identifies only a single broadcast stream of the program to be watched. In Applicants’ invention, the unified notation identifies at least a first and second broadcast stream which is neither taught nor disclosed in Mankovitz.

Further, Mankovitz captures program guides in contrast to the programs explicitly recited in Applicants' claim. In Mankovitz, at least one program guide is broadcast over a plurality of paths. The program guide contains information about programs to be watched or videotaped. In the case of ground-based broadcasting, a program notation corresponding to the signal source for describing program information is broadcast via the ground-based waves. With regard to programs broadcast via other means, the program guide contains information about programs broadcast via those other means. Thus, because a program guide can be captured via a plurality of paths, the certainty of capturing a program guide increases.

In contrast, as explicitly recited in Applicants' claims, at least one program and at least one program guide are broadcast over plural paths. The program notation for describing program information represents only the basic information about programs. The type of path capturing the program guide, i.e., broadcast, Internet or the like is immaterial. Thus, the terminal can capture a program via a suitable path depending on the conditions of the terminal. When a program is selected that is being broadcast via ground-based broadcasting means, that same program may also be received via the Internet. Thus, missing the program can be avoided. Further, because the program can be captured via an increased number of paths, the certainty of capturing the program increases. For the reasons discussed above, Mankovitz does not disclose the invention as explicitly recited in claim 15.

Therefore, it is asserted that the rejection of claims 2-4, 6, 8-9 and 15, under 35 U.S.C. § 102 has been overcome. Reconsideration of the rejection of claims 2-4, 6, 8-9 and 15, under 35 U.S.C. § 102 is respectfully requested in light of the amendments and remarks above.

Claims 2-6, 8-10 depend from, and contain all the limitations of claim 15. These dependent claims also recite additional limitations which, in combination with the limitations of claim 15, are neither disclosed nor suggested by Mankovitz and are also believed to be directed towards the patentable subject matter. Thus, claims 2-6 and 8-10 should also be allowed.

Claims 5 and 10 are rejected under 35 U.S.C. § 103 as being unpatentable over Mankovitz in view of U.S. Patent No. 6,157,411 (“Williams”). While Williams was included to disclose that a broadcast stream can comprise an internet broadcast program, Williams fails to cure the deficiency in Mankovitz discussed above regarding the unified notation. Thus, claims 5 and 10 are allowable over the cited references.

Applicants have responded to all of the rejections and objections recited in the Office reconsideration and Notice of Allowance for all of the pending claims is therefore respectfully requested.

The amendments to the claims are for clarification purposes only and are not intended to limit the scope of the claims in any way. It is asserted that the present amendment places the application in a form for allowance. Entry of this amendment is therefore earnestly solicited.

If the Examiner believes an interview would be of assistance, the Examiner is welcome to contact the undersigned at the number listed below.

Dated: December 31, 2002

Respectfully submitted,

By
Ian R. Blum

Registration No.: 42,336
DICKSTEIN SHAPIRO MORIN &
OSHINSKY LLP
1177 Avenue of the Americas - 41st Floor
New York, New York 10036-2714
(212) 835-1400
Attorneys for Applicant

IRB/mgs

APPENDIX A
“Clean” Version of Each Paragraph/Section/Claim
37 CFR 1.121(b)(ii) AND (c)(i)

SPECIFICATION:

Replacement for paragraph at page 8, line 24 to page 9, line 11:

In order to select a reception route, the reception route selection mechanism 201 checks for the broadcast time contained in the identifier of the broadcast stream. The broadcast time in the past zone is received by the communication resource receiver 203 while the broadcast time in the zone following the current zone is received by the broadcast resource receiver 202. When the broadcast time includes at the same time a past zone and a future zone, and a current zone sandwiched between the past zone and a future zone, the broadcast resource receiver 202 receives the zone ranging the current time and the end time of the future zone while the communication resource receiver 203 receives the past zone.

APPENDIX B
Version With Markings To Show Changes Made
37 CFR 1.121(b)(iii) AND (c)(ii)

SPECIFICATION:

Paragraph at page 8, line 24 to page 9, line 11:

In order to select a reception route, the reception route selection mechanism 201 checks for the broadcast time contained in the identifier of the broadcast stream [acting as input data]. The broadcast time in the past zone is received by the communication resource receiver 203 while the broadcast time in the zone following the current zone is received by the broadcast resource receiver 202. When the broadcast time includes at the same time a past zone and a future zone, and a current zone sandwiched between the past zone and a future zone, the broadcast resource receiver 202 receives the zone ranging the current time and the end time of the future zone while the communication resource receiver 203 receives the past zone.

APPENDIX C
“Clean” Version Without Amended/New Indications
37 CFR 1.121(c)(3)

SubC7

2. The resource capturing system defined in claim 15, wherein said unified notation comprises a broadcast station code, a broadcast start time, and a broadcast end time.
3. The resource capturing system defined in claim 15, wherein at least one of said broadcast streams is a TV broadcast program.
4. The resource capturing system defined in claim 15, wherein at least one of said broadcast streams is a radio broadcast program.
5. The resource capturing system defined in claim 15, wherein at least one of said broadcast streams is an Internet broadcast program.

B2

6. The resource capturing system defined in claim 15, further comprising route selection for capturing said broadcast streams, said route selection being uniquely decided dependent on a broadcast time of said broadcast streams.
7. The resource capturing system defined in claim 6, wherein when the broadcast time of said broadcast streams simultaneously includes a past zone, a future zone, and a current zone inserted between said past zone and said future zone, a zone for a period between a current time and the end of a future time is received using said broadcast resource receiver while the past zone is received using said communication resource receiver.
8. The resource capturing system defined in claim 6, wherein at least one of said broadcast streams is a TV broadcast program.
9. The resource capturing system defined in claim 6, wherein at least one of said broadcast streams is a radio broadcast program.

10. The resource capturing system defined in claim 6, wherein at least one of said broadcast streams is an Internet broadcast program.

11. The resource capturing system defined in claim 15, wherein an arbitrary portion of one of said broadcast streams is cut and then transferred onto a communication route.

12. The resource capturing system defined in claim 11, wherein at least one of said broadcast streams is a TV broadcast program.

13. The resource capturing system defined in claim 11, wherein at least one of said broadcast streams is a radio broadcast program.

14. The resource capturing system defined in claim 11, wherein at least one of said broadcast streams is an Internet broadcast program.

15. A system for capturing resources in broadcast and data communications comprising:

a broadcast resource receiver receiving at least a first broadcast stream, said broadcast resource receiver being responsive to a unified notation, said unified notation identifying at least said first broadcast stream and a second broadcast stream, said unified notation being independent from a capture route, a capture time, and an inherent name;

a communication resource receiver receiving at least said second broadcast stream, said broadcast resource receiver being responsive to a unified notation;

a reception route selection apparatus being responsive to said unified notation, said reception route selection apparatus selecting said broadcast resource receiver or said communication resource receiver for receiving one of said broadcast streams based on at least a first broadcast time corresponding to said first and second broadcast streams.

16. A system for capturing resources in broadcast and data communications comprising:

a broadcast resource receiver for receiving at least a first broadcast stream, said broadcast resource receiver being responsive to a unified notation; wherein

 said unified notation identifies at least said first and a second broadcast streams, said unified notation being independent from a capture route, a capture time, and an inherent name;

 a communication resource receiver for receiving at least said second broadcast stream, said broadcast resource receiver responsive to said unified notation;

*B2
Confidential*
 a reception route selection apparatus for selecting at least one of said broadcast streams, said reception route selection apparatus selecting said broadcast resource receiver or said communication resource receiver for receiving one of said broadcast streams based on a broadcast time for said broadcast streams, said route selection being uniquely decided dependent on a broadcast time of said broadcast stream; wherein

 when said broadcast time of said broadcast stream simultaneously includes a past zone, a future zone, and a current zone inserted between said past zone and said future zone, a zone for a period between said current time and the end of said future time is received using said broadcast resource receiver while the past zone is received using said communication resource receiver.